THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.22630 of 2005

DATED: 20-10-2005

BETWEEN:

J.Ramchandra rao .. PETITIONER

And

The Election Officer, PACS Kothappally

Gambhirraopet Mandal, Karimnagar District

And another

… RESPONDENTS

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.22630 of 2005

ORDER:

This petition is filed questioning the acceptance of nomination of the 4th respondent and rejection of the nomination of the petitioner, for election to the committee of the Primary Agricultural Cooperative Society Kothapally, Gambhirraopet Mandal, Karimnagar District.

The contention of the learned counsel for the petitioner is that first respondent (Election Officer) while erroneously rejecting the nomination of the petitioner had without considering the objection of the petitioner to the nomination of the 4th respondent had accepted the nomination of the 4th respondent and declared him elected, inspite of the fact that the petitioner produced evidence to show that the 4th respondent was having three children who were born on 23.04.1997, 20.03.1999 and 19.11.2000 respectively, and when as per the Section 21A (1A) of the A.P. Cooperative Societies Act, which was introduced by way of

amendment on 02.01.1995, *a person having more than two children shall be disqualified for election or for continuing as a member of the Committee* and since 4th respondent is going to contest for the post of the President of the committee, inspite of his disqualification even for becoming a member.

Since acceptance or rejection of nomination is an intermediary stage of election process, and since it is well known that this Court would not generally entertain applications under Article 226 of the Constitution of India, when the election process is set in motion, as effective and efficacious alternative remedy of election petition is available, as held in **V.NARAYANA v ELECTION OFFICER,MUNICIPAL COMMISSIONER, ALWAL MUNICIPALITY, R R DISTRICT AND ANOTHER, A.P.SARPANCH ASSOCIATION AND OTHERS v GOVERNMENT OF A.P. PANCHAYAT RAJ DEPARTMENT AND OTHERS, GUTHAKONDA KANAKA DURGA v STATE ELECTION COMISSIONER, GOVERNMENT OF ANDHRA PRADESH, HYDERABAD AND OTHERS AND** the Apex Court in **C.SUBRAHMANYAM v K.RAMANJANEYULU AND OTHERS ,** the remedy, if any, of the petitioner either against the order rejecting his nomination or the order accepting the nomination of the 4th respondent, rejecting his objections, is by way of election petition only and not by way of a writ petition and hence, this petition is liable to be dismissed.

Accordingly, the writ petition is dismissed with liberty to the petitioner to file Election Petition before the appropriate Tribunal. No costs.

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20-10-2005

kvrm